

the vacant channels were allocated either in the Commission's initial 1952 Table of Television Assignments or prior to 1966.<sup>55/</sup> Given the number of vacant allotments and the fact that many have remained vacant for several decades, displacement of the University's proposed translators is clearly unlikely. Indeed, the Commission staff itself has previously recognized that in this area, "... translators are not likely to be displaced."<sup>56/</sup> And, KKTV agrees.<sup>57/</sup>

The University's planned expansion of KTSC(TV)'s translator network will provide first off-air noncommercial educational television service to residents of the Western Slope.<sup>58/</sup> The Western Slope consists of ten counties and has a total

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<sup>54/</sup> (...continued)

Television & Cable Factbook, Volume 61 (Television), Copyright 1993, Warren Publishing Inc.

<sup>55/</sup> See Sixth Report & Order on Television Allocations, 41 FCC 148, 506 (1952); 47 C.F.R. § 73.606 as reprinted in 1 RR 53:636, 53:637 (Regulations) (1966).

<sup>56/</sup> tvUSA/Pueblo Ltd., 4 FCC Rcd 598, 600 (1989).

<sup>57/</sup> See KKTV Opposition to Application for Review, supra note 52, at 15.

<sup>58/</sup> In its comments, KKTV suggests that the lack of authorizations for the proposed Western Slope translators lends greater speculativeness to them. KKTV Comments at 22. It should be noted that the University has filed applications for construction permits for these translators which have been accepted for filing by the Commission and placed on a proposed grant list. See Broadcast Applications (Public Notice), Report No. 15505, at 8-9, released April 14, 1993 (indicating the tendering of filing of the applications); Low Power/Television Translators: Proposed Construction Permits (Public Notice), Report No. GL93-4, released July 16, 1993 (indicating the applications' acceptance for filing). However, Pikes Peak filed a petition to deny the applications not premised on any legitimate substantive grounds but on speculation and innuendo about the University's financial resources. See Pikes Peak Petition to  
(continued...)

population of 207,974. The University proposes to serve this area with two translators -- one in Mesa County and the other in Montezuma County.<sup>59/</sup> These translators will allow KTSC(TV) to provide first off-air Colorado-based educational service to 82,871 persons.<sup>60/</sup>

Given the physical characteristics of the Western Slope and the history of full-service television operations in the area, translators are the only practical means by which these 82,871 persons could receive off-air television service. The Western Slope not only has numerous mountains but it also has a scattered population located between its mountain ranges and national forests.<sup>61/</sup> As a result, the National Telecommunications and Information Administration ("NTIA") has expressly

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<sup>58/</sup> (...continued)

Deny, filed August 16, 1993. (Prior to the filing of the Joint Petition, Pikes Peak had no interest in such matters. Clearly, these actions are being taken in the spirit of dissuading the University from participating in the proposed channel swap.) It is disingenuous at best for Pikes Peak to criticize the University's translator plans as speculative at the same time it is actively seeking to thwart them.

<sup>59/</sup> See Joint Petition Engineering Statement, supra note 10, at Appendix A.

<sup>60/</sup> KKTU erroneously contends that Petitioners did not provide pertinent details about the University's proposed translator service to the Western Slope (i.e., the type of noncommercial service which would be provided). KKTU Comments at 8-9. To the contrary, the Petitioners indicated that as a result of the swap, Western Slope residents would receive their first off-air public television service, and noted that presently the region receives noncommercial, educational service only via satellite. See Joint Petition at 2; see also, supra note 13.

<sup>61/</sup> Public Broadcasting Coverage In the United States, U.S. Department of Commerce, National Telecommunications and Information Administration, Copyright 1989, 53.

recognized that the Western Slope population must rely on translators and/or cable for television service.<sup>62/</sup>

Moreover, NTIA has opined that the most likely means of expanding noncommercial television service to unserved areas such as the Western Slope will be accomplished by extending the signals of already-existing stations like KTSC(TV) through the use of translators or major satellite repeater stations.<sup>63/</sup> In short, despite the theoretical possibility that translators may be displaced, the fact -- recognized by another federal government agency -- is that translators afford the only practical means by which off-air service is or can be provided to these areas. Under these circumstances, the service gains associated with the proposed translator operations may not be discounted but must instead be treated as "cognizable" because no other means of providing such service is likely.<sup>64/</sup>

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62/ Id. Several other regions of the State of Colorado rely on translators and cable television as the means by which they receive noncommercial service, e.g., Baca County, the Gunnison National Forest and the Moffat County Region, which is located in the northwest corner of the state. Id. at 54.

63/ Id. at 551.

64/ In the Notice, the Commission also suggests that the gain resulting from KTSC(TV)'s use of Translator K30AA may be "too speculative" to consider as one of the swap's public interest benefits. Notice, supra note 2, at ¶ 9. As detailed in the Joint Comments, KOAA-TV and KTSC(TV) for over a decade have each supplemented their service to Colorado Springs by means of translators to overcome the shadowing occurring due to mountainous terrain. See Joint Comments at 18-20. This established reliance on translators confirms that the University's acquisition of K30AA is a valid public interest benefit of the swap and is not speculative in the least.

Extension of the Cheyenne Mountain Permit  
And the Authorization's Inclusion  
in the Proposed Channel Exchange Are Warranted

Since the announcement of the swap proposal, the Commercial Competitors have relentlessly challenged the validity and continued existence of the Cheyenne Mountain Permit. As Petitioners have repeatedly demonstrated,<sup>65/</sup> the Cheyenne Mountain Permit was properly granted on February 28, 1991.<sup>66/</sup> When the Joint Petition was filed on September 8, 1992, the Commission's grant had long since become a final order no longer subject to further administrative or judicial review. The Cheyenne Mountain Permit was and continues to be an authorization which was properly applied for and granted. Thus, the validity of the Cheyenne Mountain Permit is a settled matter and may not be revisited here.<sup>67/</sup>

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65/ See e.g., Joint Consolidated Opposition to Petitions for Issuance of Order to Show Cause, supra note 4, at 10-19.

66/ See FCC File No. BPET-900122KE.

67/ In essence, the Commercial Competitors are attempting to reargue whether grant of the University's application to modify KTSC(TV)'s transmitter to Cheyenne Mountain Permit is in the public interest. Both Pikes Peak and KKTV overlook that this issue was addressed and decided in February, 1991 when the application was granted. Thus, the principles underlying administrative collateral estoppel which preclude the relitigation of issues by the same parties are applicable here. See Stein, Mitchell, Mezines, Administrative Law at 40-15 (1993); Colorado Radio Corp. v. FCC, 118 F.2d 24, 26 (D.C. Cir. 1941) (recognition that "there must be an end to determinations and redeterminations"); KIRO, Inc. v. FCC, 438 F.2d 141 (D.C. Cir. 1970) (statement that administrative proceedings should not become "endurance contests modeled after relay races"). Although the Commercial Competitors did not participate in the Cheyenne Mountain Permit application process, they had full and timely notice of it and could have timely participated. They did not, but instead made a conscious choice not to participate in any fashion. Because they have not presented  
(continued...)

KKTV's comments nonetheless continue to contest the fact that the Cheyenne Mountain Permit was issued to the University in the first instance.<sup>68/</sup> Such an attack on the Cheyenne Mountain Permit at this time and in this proceeding is nothing more than an additional untimely request for reconsideration of the Commission's grant of the Cheyenne Mountain Permit.<sup>69/</sup>

The Commercial Competitors, for whatever reasons,<sup>70/</sup> voluntarily elected not to participate in the Cheyenne Mountain Permit application proceeding. In an effort to recapture this foregone opportunity, since the filing of the Joint Petition in September, 1992 they have challenged the Commission's ultimate decision, and now

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<sup>67/</sup> (...continued)

any arguments or decisionally significant facts which could not have been timely raised, the Commercial Competitors are estopped from attempting to participate in this matter at this late date.

<sup>68/</sup> KKTV Comments at 11-13.

<sup>69/</sup> The Commercial Competitors formally requested reconsideration of this action in October, 1992; however, the Commission dismissed their requests as untimely. Similar requests are even less timely now, almost a year later.

<sup>70/</sup> Pikes Peak indicates that it did not oppose KTSC(TV)'s modification application due to its support of "the expansion of non-commercial educational programming." Pikes Peak Comments at 3, n.5. This excuse is inconsistent with Pikes Peak's actions. Since the announcement of the channel swap proposal, Pikes Peak has opposed every requested Commission action directly pertaining to or affecting the University and its operations of KTSC(TV). Such conduct is not reflective of one supportive of a noncommercial licensee and its service goals. Pikes Peak's explanation of its lack of prior participation does nothing more than emphasize and confirm its private anti-competitive motives.

the decision-making process, pertaining to the authorization.<sup>71/</sup> The Commercial Competitors' motives are thus painfully obvious: it is not the existence of the Cheyenne Mountain Permit which they find troublesome but SCC's proposed implementation of it.<sup>72/</sup> Clearly, this is an insufficient basis -- if not a grossly improper motive -- for attacking a public interest determination which the Commission properly made over two years ago.

KKTV's allegation of changed circumstances is equally unavailing.<sup>73/</sup> The only changed circumstance noted is the identity of the holder of the Cheyenne Mountain Permit. As previously demonstrated by Petitioners, the University's noncommercial status was not, and indeed could not have been, a decisionally significant factor in the Commission's issuance of the authorization and associated grant of a short-spacing waiver.<sup>74/</sup> Moreover, because that waiver was premised on

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71/ See Petition for Reconsideration filed October 5, 1992 by Pikes Peak; Petition for Reconsideration filed October 8, 1992 by KKTV; KKTV Comments at 11-13.

72/ See *supra* at 3.

73/ See KKTV Comments at 13.

74/ Pikes Peak also contends that the Commission granted the short-spacing waiver associated with the Cheyenne Mountain Permit based solely on the University's non-commercial status. Pikes Peak Comments at 3. The Commission's minimum distance separation rules, however, are premised on concerns about electrical interference. Sarkes Tarzian, Inc., 6 FCC Rcd 2465, 2466 (1991); see also, e.g., The Outlet Co., 11 FCC 2d 528 (1968). The Commission's waiver of such rules therefore must also be premised on technical considerations. See e.g. Sarkes Tarzian, Inc., 6 FCC Rcd at 2466-2467; New Jersey Public Broadcasting Authority, 74 FCC 2d 602 (1979), *aff'd* 50 RR 2d 251 (1981). And, the amount of electrical interference associated with a particular short-spacing does not vary based on the

(continued...)

a public interest determination about lack of the objectionable electrical interference associated with implementation of the Cheyenne Mountain Permit, the only relevant change in circumstances would pertain to the actual interference caused by such implementation. Clearly, the mere identity of the holder of the authorization, whether commercial or non-commercial, does not affect the level of electrical interference.<sup>74/</sup>

The Commercial Competitors' arguments against the Commission's extension of the Cheyenne Mountain Permit are likewise without merit. Contrary to the Commercial Competitors' contentions, the University's pursuit of the swap proposal does not signify its abandonment of the Cheyenne Mountain Permit.<sup>76/</sup> As

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<sup>74/</sup> (...continued)

commercial or non-commercial status of the operator of the short-spaced facility. See Joint Comments at 14-17; Joint Consolidated Show Cause Opposition, supra note 4, at 12-17.

<sup>75/</sup> In its comments, KKTv seeks to distract the Commission by discussing SCC's earlier efforts to improve its service to Colorado Springs. See KKTv Comments at 14 et. seq., and then charges the University and SCC planned the channel swap prior to KTSC(TV)'s filing of Cheyenne Mountain Permit application. Notably this is not the first time that either KKTv or Pikes Peak have made such defamatory allegations devoid of any factual basis. See Pikes Peak's Petition for Issuance of Order to Show Cause (December 2, 1992) at 10-11; KKTv's Petition for Issuance of Order to Show Cause (December 4, 1992) at 8, 10-11. This time, however, it is more puzzling and deserves even less recognition (if that is possible) since the Petitioners have already responded to this charge. See Joint Consolidated Show Cause Opposition, supra note 4, at Exhibit Nos. 2 and 3 (declarations of John O. Gilbert and Gregory B. Sinn). Petitioners, once again, submit that the decision to pursue the issuance of the Cheyenne Mountain Permit was initiated by the University, at its own behest, and the underlying application was prosecuted solely by the University without any consultation with SCC nor was it based on any prior understandings between the Petitioners.

<sup>76/</sup> Pikes Peak Comments at 6.

previously indicated, in the event that the Commission does not approve the swap, the University remains interested in implementing the Cheyenne Mountain Permit.<sup>77/</sup> Also, the University has previously demonstrated that its delay in further implementing the modifications authorized under the Cheyenne Mountain Permit was not only reasonable but prudent given the circumstances surrounding the swap proposal.<sup>78/</sup> Moreover, due to the operational consequences of the implementation of the proposed channel swap, the pendency of the swap is clearly a circumstance beyond the University's control, not a mere business judgement.<sup>79/</sup> Based on the

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<sup>77/</sup> See e.g. Petitioners' Joint Opposition to Petition to Revoke and Deny CP Extension (March 4, 1993) at 9.

<sup>78/</sup> See Petitioners' Joint Opposition to Petition to Revoke and Deny CP Extension, *supra* note 74, at 9-11; Petitioners' Joint Opposition to Petition to Deny Application for Extension of Construction Permit and Supplement to Petition for Issuance of Order to Show Cause Why Construction Permit Should Not be Revoked (March 17, 1993) at 7-9; In its comments, KKTV again cites Community Service Telecasters, Inc., 6 FCC Rcd 6026 (1991) as being instructive on whether extension of the Cheyenne Mountain Permit is warranted. KKTV Comments at 17. The Petitioners have previously demonstrated that the Community Service Telecasters, Inc. case is inapposite to the circumstances presented here. Petitioners' Joint Opposition to Petition to Deny Application for Extension of Construction Permit and Supplement to Petition for Issuance of Order to Show Cause Why Construction Permit Should Not be Revoked, *supra*, at 8-9.

<sup>79/</sup> Pikes Peak grossly mischaracterizes the Commission's discussion about whether extension of the Cheyenne Mountain Permit is warranted when it states that the Commission had determined that the University's involvement in this rulemaking is "a business judgement and not an acceptable basis" under Section 73.3535(b) for the University's delay in completing the Cheyenne Mountain Permit's implementation. Pikes Peak Comments at 2, n.2. In fact, the Commission stated that the central issue in determining if extension of the Cheyenne Mountain Permit is warranted is whether the University's delay based on the pendency of the rulemaking is more properly characterized as a circumstance beyond its control or a business judgment. Notice,  
(continued...)



showings made in the University's application for extension of the Cheyenne Mountain Permit, as amended<sup>80/</sup>, extension of the authorization is warranted.

### Conclusion

The University and SCC here reconfirm their commitment to and support of the channel exchange proposed in the Joint Petition. Both their Joint Petition and their Joint Comments establish that approval of the channel exchange they propose is fully consistent with the public interest because it would result in significant, tangible public interest benefits to KTSC(TV) and KOAA-TV and their viewers.

The Commercial Competitors' comments cannot and do not support a contrary conclusion. They essentially ignore the swap's unquestionable benefits. They concentrate instead on collateral attacks on the proposed swap. Their charges have already been addressed and rebutted by the Petitioners. Their comments thus simply emphasize the Commercial Competitors' ultimate motivation for participating both in this proceeding and in others which they have initiated over the last year -- namely, to frustrate SCC's efforts to improve its service as a competitor in the Colorado Springs-Pueblo market.

---

<sup>79/</sup> (...continued)

<sup>supra</sup> note 2, at ¶ 7,n.4. Assuming arguendo the accuracy of Pikes Peak's statement, this would mean that the Commission had already acted on the extension application which, of course, has not yet happened; therefore, Pikes Peak obviously is in error.

<sup>80/</sup> See FCC File No. BMET-930216KE; University's Supplemental Statement, filed March 23, 1993; University's Amendment, filed September 13, 1993.

Although the Commercial Competitors also have opposed SCC's prior endeavors to provide more competitive service, this time their opposition harms not only KOAA-TV but also noncommercial KTSC(TV), the University and their viewers. Pikes Peak and KKTU are not dissuaded from their anti-competitive behavior by the service, operational and programming benefits to be received by KTSC(TV) as a result of the swap. However, the potential of such benefits has not escaped members of the public which will be affected by the swap. Both local and federal civic and community leaders recognize the clear public interest in the swap and have in consequence indicated their firm support for it. Such support combined with the legal and factual showings made in the Joint Comments and these Joint Reply establish that the Commercial Competitors' contentions are without merit and that the proposed swap furthers the public interest.

The University and SCC therefore again request the Commission to approve the channel exchange proposed in their Joint Petition.

Respectfully submitted,

UNIVERSITY OF SOUTHERN COLORADO

By: \_\_\_\_\_

Wayne Coy

Its Attorney

COHN & MARKS  
1333 New Hampshire Ave., N.W.  
Suite 600  
Washington, D.C. 20036  
(202) 293-3860

**SANGRE DE CRISTO COMMUNICATIONS,  
INC.**

By: Kevin F. Reed

**Kevin F. Reed  
Suzanne M. Perry  
D'wana R. Speight**

**Its Attorneys**

**DOW, LOHNES & ALBERTSON  
1255 23rd Street, N.W.  
Suite 500  
Washington, DC 20037  
(202) 857-2500**

**September 27, 1993**

## **ATTACHMENT A**

### **Letters in Support of Joint Reply Comments**

- **Robert M. Isaac, Mayor of Colorado Springs, Colorado**
- **John Fowler, President of the Colorado Springs Chamber of Commerce**
- **Dr. Michael Ortiz, President of the Latino Chamber of Commerce of Pueblo**
- **Joel Hefley, Representative for 5th District of Colorado, U.S. Congress**
- **Hank Brown, U.S. Senator (Colorado)**
- **Scott McInnis, Representative for 3rd District of Colorado, U.S. Congress**
- **Ben Nighthorse Campbell, U.S. Senator (Colorado)**



ROBERT M. ISAAC  
MAYOR

CITY OF COLORADO SPRINGS

September 21, 1993

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20554

ATTENTION: Mr. Michael C. Ruger  
Chief, Allocations Branch  
(Stop Code 1800D5)

RE: Amendment of Section 73.606 (b)  
(Pueblo, Colorado)  
MM Docket No. 93-191 (RM-8088)

Dear Mr. Caton:

As Mayor of the City of Colorado Springs, it is a pleasure to support the proposed channel exchange between the University of Southern Colorado, licensee of noncommercial Station KTSC(TV) and Sangre de Cristo Communications, Inc., licensee of commercial Station KOAA-TV. I am writing to support the channel exchange as originally proposed by the University of Southern Colorado and Sangre de Cristo Communications, Inc. in their Joint Exchange Petition.

The proposed swap would be beneficial to the residents of Colorado Springs and Pueblo because of the significant service benefits received by the two stations involved. The University of Southern Colorado would receive a substantial monetary contribution which will be used to enhance the noncommercial programming offered by Television Station KTSC(TV) and to expand its current network of television translators to the Western Slope of Colorado. Consequently, as a whole, the residents of Colorado Springs, Pueblo and the Western Slope will be better off as a result of the swap.

Also, by virtue of the swap, if approved as proposed in the Joint Exchange Petition, KOAA-TV will be able to relocate its tower and transmitter to a site atop Cheyenne Mountain where the towers of the other area commercial television stations are located. Although licensed to Pueblo, Colorado, KOAA-TV has historically served both Pueblo and Colorado Springs. However, its signal is not as strong as the other network commercial stations. Therefore, if KOAA-TV were to locate its tower and transmitter to Cheyenne Mountain, its NBC network programming would become available to a greater number of Colorado Springs residents.

In light of the service benefits associated with this swap, we believe that the Commission's approval of the channel exchange as presented in the Joint Exchange Petition would be in the public interest. We urge you to take action on the pending Notice of Proposed Rulemaking as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert M. Isaac", with a long horizontal flourish extending to the right.

Robert M. Isaac  
Mayor

John D. Fowler  
President



September 21, 1993

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M St., NW  
Washington, D.C. 20554

ATT: Mr. Michael Ruger, Chief  
Allocations Branch

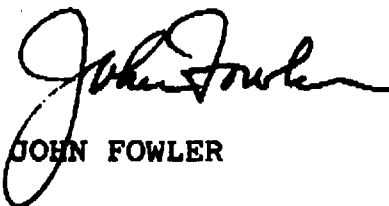
Dear Mr. Caton:

This letter is to support the proposed channel exchange between the University of Southern Colorado, KTSC-TV, a licensed noncommercial television station, and Sangre de Cristo Communications, Inc., commercial station KOAA-TV, as described in their Joint Exchange Petition.

The proposed exchange would provide significant benefit both stations and the communities involved. The proposal involves revenue enhancement to the University of Southern Colorado, which would be used to enhance noncommercial programming and extended coverage in communities throughout southern Colorado. By relocating its tower and transmitter, KOAA-TV would improve its signal in the Colorado Springs area, for the benefit of its viewers.

We encourage the Commission's approval of the channel exchange in the interest of the public, and urge its prompt action on the Notice of Proposed Rulemaking.

Sincerely,



JOHN FOWLER



**Latino Chamber  
of Commerce  
of Pueblo**

1004 W. Abriendo • Pueblo, CO 81004

(719) 542-5513

September 23, 1993

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M St., NW  
Washington, D.C. 20554

Attn: Mr. Michael Ruger, Chief  
Allocations Branch

Dear Mr. Caton:

This letter is to support the proposed channel exchange between the University of Southern Colorado, KTSC-TV, a licensed noncommercial television station, and Sangre de Cristo Communications, Inc., commercial station KOAA-TV, as described in their Joint Exchange Petition.

The proposed exchange would provide significant benefit to both stations as well as their communities. The proposal involves revenue enhancement for the University of Southern Colorado which would be used to strengthen noncommercial programming and to provide extended coverage in communities throughout southern Colorado. The relocation of KOAA-TV's tower and transmitter would improve the signal in the Colorado Springs area and would benefit the viewers in this area.

Both stations are dedicated to community service and are particularly sensitive to minority concerns. KTSC-TV televises the Pueblo Hispanic Education Foundation's annual Dollars for Scholars telethon. The telethon raises funds to provide scholarships for Hispanic students. For six years running, KOAA-TV has received the station of the year honor from the Colorado Broadcasters Association in recognition of their broad community involvement.

The Pueblo Latino Chamber of Commerce encourages the Commission's approval of the channel exchange in the interest of the public and urges prompt action on the Notice of Proposed Rulemaking.

Sincerely,

Dr. Michael Ortiz  
President

cg





# Congress of the United States

## House of Representatives

September 22, 1993

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Mr. Caton:

I would like to express my support for the proposed channel exchange between the University of Southern Colorado, licensee of noncommercial station KTSC (TV) and Sangre de Cristo Communications, Inc., licensee of commercial station KOAA-TV as outlined in their Joint Exchange Petition.

According to the proposal, the University of Southern Colorado would receive a substantial monetary contribution to enhance the noncommercial programming offered by KTSC (TV) and expand its current network of television translators to Colorado's Western Slope.

In addition, KOAA-TV will be able to relocate its tower and transmitter to a site atop Cheyenne Mountain where the towers of other area commercial television stations are located. It is my understanding that, although licensed to Pueblo, Colorado, the station serves both Pueblo and Colorado Springs. Unfortunately, its signal is not as strong as the other network commercial stations. Further, I understand that by relocating the tower and transmitter, KOAA-TV's NBC network programming would become available to a greater number of Colorado Springs residents.

For these reasons -- increased service to residents in Pueblo and Colorado Springs, stronger educational television service, and placement of KOAA-TV on equal footing with other commercial television licensees -- I would urge consideration on the pending Notice of Proposed Rulemaking if it is in accordance with applicable laws and regulations. I would also ask that, if appropriate, my views be included in the record.

Sincerely,

A handwritten signature in black ink, appearing to read "Joel Hefley".

Joel Hefley  
Member of Congress

JH:ls

# United States Senate

WASHINGTON, DC 20510-0804

September 21, 1993

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street N.W.  
Washington, D.C., 20554

Dear Mr. Caton:

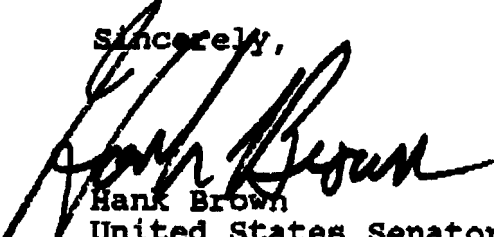
I am writing in regard to a petition submitted by the University of Southern Colorado (licensee of noncommercial station KTSC-TV), and Sangre de Cristo Communications, Inc. (licensee of commercial station KOAA-TV).

The University of Southern Colorado and Sangre de Cristo Communications, Inc. have submitted a Joint Exchange Petition to the Federal Communications Commission requesting a channel exchange. The proposed exchange would allow the University of Southern Colorado to enhance the noncommercial programming offered by KTSC-TV and to expand its current network of television translators to the Western Slope of Colorado, thereby strengthening educational television service to the region.

The exchange would also allow KOAA-TV to relocate its tower and transmitter to a site where the towers of the other area commercial television stations are located. This would strengthen KOAA-TV's signal and thus allow its programming to become available to a greater number of Colorado residents, putting it on an equal footing with its commercial competitors. KOAA-TV serves both the residents of Colorado Springs and Pueblo, which now constitutes a single television market.

Your consideration of the petition submitted by the University of Southern Colorado and Sangre de Cristo Communications, Inc. would be appreciated. Please keep me informed of the status of this petition.

Sincerely,



Hank Brown  
United States Senator

HB/lw

SCOTT MCINNIS  
3D DISTRICT, COLORADO

WASHINGTON OFFICE:  
812 CANNON BUILDING  
WASHINGTON, DC 20515-0803  
(202) 226-4781  
FAX: (202) 226-0822

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-0603**

September 23, 1993

DISTRICT OFFICES:  
134 WEST 8 STREET  
PUEBLO, CO 81003  
(719) 843-8200  
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GRAND JUNCTION, CO 81501  
(903) 248-7107  
FAX: (903) 248-2184  
1060 MAIN AVENUE  
# 107  
DURANGO, CO 81301  
(303) 258-2784  
FAX: (303) 258-2782  
828 PINE STREET  
SUITE 111  
GLENWOOD SPRINGS, CO 81601  
(303) 928-8837  
FAX: (303) 928-0830

Mr. William F. Canton  
Acting Secretary  
Federal Communications Commission  
1919 N Street, N.W.  
Washington, D.C. 20554

Dear Mr. Canton:

I am writing in regard to a petition submitted by the University of Southern Colorado, a licensee of noncommercial station KTSC-TV, and Sangre de Cristo Communications, Inc., a licensee of commercial station KOAA-TV.

The University of Southern Colorado and Sangre de Cristo Communications, Inc. have submitted a Joint Exchange Petition to the Federal Communications Commission requesting a channel exchange. This proposed exchange will afford the University of Southern Colorado an opportunity to enhance the noncommercial programming offered by KTSC-TV, as well as expanding its current network of television translators to the Western Slope of Colorado. Therefore, this exchange will strengthen education television service within the region.

The proposed channel exchange will also allow KOAA-TV to relocate its tower and transmitter to a site where the towers of other area commercial television stations are located. This will strengthen KOAA-TV's signal, thereby placing it on equal footing with its commercial competitors. KOAA-TV serves both the residents of Colorado Springs and Pueblo, which now constitutes a single television market.

Your consideration of the petition submitted by the University of Southern Colorado and Sangre de Cristo Communications, Inc. would be appreciated. Please keep me apprised of the status of this petition.

Sincerely,

  
Scott McInnis  
Member of Congress

SM:db

# United States Senate

WASHINGTON, DC 20510-0605

September 24, 1993

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C., 20554

Dear Mr. Caton:

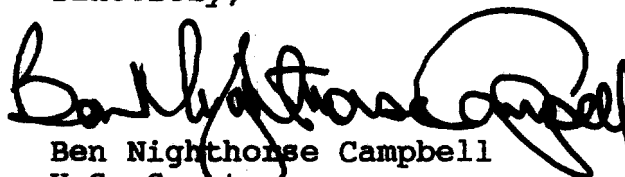
I am writing in support of a petition submitted by the University of Southern Colorado and Sangre de Cristo Communications, Inc.

It has been brought to my attention that the University of Southern Colorado, licensee of KTSC-TV, and Sangre de Cristo Communications, Inc., licensee of KOAA-TV, have submitted a Joint Exchange Petition to the Federal Communications Commission requesting a channel exchange. The channel exchange would help the University of Southern Colorado amplify KTSC-TV's noncommercial programming and expand its television translators to Colorado's Western Slope -- making KTSC-TV's educational and cultural programs accessible to more Coloradoans in under-served cities such as Grand Junction and Durango.

The channel exchange would also strengthen KOAA-TV's signal by allowing the station to relocate its tower and transmitter to a location where the towers of other area commercial television stations are situated. This move would put KOAA-TV -- which serves both Colorado Springs and Pueblo, one market -- on par with other commercial stations and would improve its access to more Coloradoans.

I would greatly appreciate your consideration of this petition from the University of Southern Colorado and Sangre de Cristo Communications, Inc. I look forward to hearing from you soon about the status of this petition.

Sincerely,



Ben Nighthorse Campbell  
U.S. Senator

BNC:jj

**ATTACHMENT B**

**Engineering Statement of Cohen, Dippell & Everist, P.C.  
(September 1993)**

**ENGINEERING STATEMENT  
IN SUPPORT OF  
JOINT REPLY COMMENTS IN DOCKET NO. 93-191  
ON BEHALF OF UNIVERSITY OF SOUTHERN COLORADO  
AND SANGRE DE CRISTO COMMUNICATIONS, INC.**

**SEPTEMBER 1993**

**COHEN, DIPPELL AND EVERIST, P.C.  
CONSULTING ENGINEERS  
RADIO AND TELEVISION  
WASHINGTON, D.C.**

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington           )  
  ) ss  
District of Columbia        )

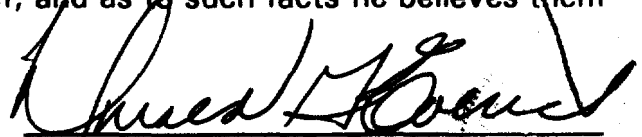
Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

That his qualifications are a matter of record in the Federal Communications Commission;

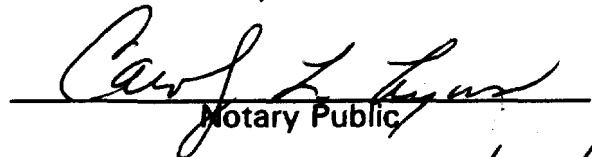
That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.



Donald G. Everist  
District of Columbia  
Professional Engineer  
Registration No. 5714

Subscribed and sworn to before me this 24<sup>th</sup> day of September, 1993.

  
Notary Public

My Commission Expires: 2/28/93

This engineering statement has been prepared on behalf of the University of Southern Colorado and Sangre de Cristo Communications, Inc. in support of their Joint Reply Comments ("Reply") in MM Docket No. 93-191. This docket proposes to exchange Channel 8, on which KTSC(TV), Pueblo, Colorado, an educational facility, currently operates with Channel 5, on which KOAA-TV, Pueblo, Colorado, a commercial facility currently operates.

Figure 1 of this statement is a map of the service areas (Grade B contours) resulting from the KOAA-TV's licensed operation on Channel 5 and the proposed Channel 8 operation from Cheyenne Mountain<sup>1</sup>. The service areas have been computed every ten degrees and are based upon the appropriate propagation curves provided in Section 73.699 of the FCC Rules. For the resulting change in service area for Channel 5 and Channel 8 to the south (see Figure 2), population studies have been performed. The results of these population studies, including a county-by-county breakdown, are provided in Table I.

Based upon these results, allocation studies have been made to place TV translators which will provide service to those areas which now receive Channel 5 service. A total of five TV translators are proposed, as indicated in Figure 2, in areas which would result in service to a large portion of the differential area between Channel 5 and Channel 8. A frequency search has been made for each of the

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<sup>1</sup> An application to modify the construction permit will be filed with the Commission shortly which changes slightly the antenna site and specifies a Dielectric transmitting antenna.



proposed translator/LPTV operations. A channel has been found for each of the proposals. The attached Table II lists the available channels for the TV translators. In addition, it appears that there are additional frequencies available. Also, as indicated in Table I, LPTV/TV translator K02AC, Aguilar, Colorado is an existing station serving a portion of this area. Furthermore, as reflected in Table I, cable service is available in all of these areas.

Finally, it should be noted that service to these sparsely populated rural areas is now and will be provided from DBS operators. These emerging service providers are incorporating recent developments in TV signal compression technology. This will permit a greater range of video and audio services to be provided. We understand that the equipment to receive these DBS services will be available through nationwide commercial stores and that the receive equipment will be easy to install and operate. The charge for the initial installation of equipment is expected to be in the \$500 to \$2,000 range. The monthly service fees are expected to be comparable to current cable TV charges.

The loss of service to KOAA-TV to the south will be 1,463 persons after the LPTV/TV translator service is considered but excluding considerations of cable and DBS service. The proposed population gain for KTSC-TV's, Channel 5 operation over its Channel 8 operation is 5,246 persons. Thus, there is a net gain in off-air service of 3,783 persons excluding the proposed Western Slope translators and K30AA.